

REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 17, 18, 21 through 24, 26 through 28, 31 through 34, 36, 37, 47, 48, 51 through 54, 56, 57, and 59 through 61 are pending, with Claims 17, 23, 24, 27, 33, 34, 47, 53, 54, 59, 60, and 61 being independent. Non-elected, withdrawn Claims 2 through 16 and 40 through 46 have been cancelled without prejudice. Claims 23, 24, 27, 33, 34, and 54 have been amended. Claims 59 through 61 have been added.

Claims 17, 18, 21 through 24, 26 through 28, 31 through 34, 36, 37, 47, 48, 51 through 54, 56 and 57 were variously rejected under 35 U.S.C. § 103(a) over U.S. Patent Nos. 5,675,42 (Jain, et al.), 6,076,113 (Ramanathan, et al.), and 5,699,369 (Guha). The Official Action indicated in paragraph 12 that Claims 24, 34, 36 and 54 were rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,519,636 (Engel, et al.) in view of Gelman. However, the Official Action then proceeds, in paragraphs 13 et seq., to apply Jain, et al. and Ramanathan, et al.; accordingly, it is Applicants' understanding that paragraph 12 was intended to refer to Jain, et al. and Ramanathan, et al. All rejections are respectfully traversed.

Claims 17, 27, and 47 variously recite, *inter alia*, *with respect to the gateway*, throttling a user of a first apparatus by adjusting the transport level window size of a packet in accordance with (1) the level of service subscribed to by the user of the first apparatus and (2) bandwidth usage associated with the user of the first apparatus, and sending the so adjusted packet to a second apparatus (each of the first apparatus, gateway, and second apparatus having different IP addresses).

Claim 59 through 61 variously recite, *inter alia*, with respect to the gateway, determining which of a plurality of service plans a user of a first apparatus subscribes to, and throttling a user of a first apparatus in accordance with (1) a leaky bucket analysis of the user's throughput and (2) the determined service plan subscribed to by the user, wherein a packet on a TCP/IP connection between the first apparatus and the second apparatus is intercepted, and throttling is effected by modifying a field in the packet.

Claims 23, 33, and 53 variously recite, *inter alia*, with respect to the gateway, determining the number of TCP connections, and throttling a user of a first apparatus in accordance with (1) the determination of the number of TCP connections that are open and (2) a level of service subscribed to by the user of the first apparatus (each of the first apparatus, the gateway, and a second apparatus having different IP addresses).

Claims 24, 34, and 54 variously recite, *inter alia*, with respect to the gateway, throttling a user of a first apparatus in accordance with (1) a leaky bucket analysis of the user's throughput and (2) a level of service subscribed to by the user, wherein a packet on a TCP/IP connection between the first apparatus and the second apparatus is intercepted, and throttling is effected by discarding the packet.

However, Applicants respectfully submit that none of Jain, et al., Ramanathan, et al., and Guha, even in the proposed combinations, assuming, *arguendo*, that the documents could be combined, discloses or suggests at least the above-discussed claimed features as recited, *inter alia*, in Claims 17, 23, 24, 27, 33, 34, 47, 53, 54, and 59 through 61.

With respect to Claims 17, 27, and 47, the Official Action asserts, e.g., that Jain, et al.'s shows one system 7 that constitutes the first apparatus, a router 9 that constitutes the gateway, and another system 7 that constitutes the second apparatus. This assertion is respectfully traversed. Applicants respectfully submit that Jain, et al.'s router 9 sets the flag 21 on certain packets (e.g., col. 10, lines 49 et seq.), and source 7 determines whether to allow an increase or require a decrease in window size (e.g., col. 10, lines 64 and 65); however, Applicants respectfully submit that Jain, et al.'s router 9 does not adjust the transport level window size as claimed.

With respect to Claims 23, 33, and 53, the Official Action does not address the claimed feature regarding the number of TCP connections, and Applicants respectfully submit that the applied documents are silent at least in this regard.

With respect to Claims 24, 34, and 54, the Official Action does not address the claimed feature regarding discarding the packet as claimed, and Applicants respectfully submit that the applied documents are silent at least in this regard.

With respect to Claims 59 through 61, Applicants respectfully submit that the applied documents fail to disclose or suggest at least the features mentioned above with respect to those claims, including determining which of a plurality of service plans a user of a first apparatus subscribes to, and throttling as claimed. Applicants respectfully note that Ramanathan, et al. discloses, e.g., that it "determines the maximum TCP window size setting to use ... either based on the network address of the subscriber site 12, or based on a pre-specified value (chosen based on typical maximum TCP window size settings at the subscriber sites 12, 14 and 16)" (col 5, lines 45-51), which Applicants respectfully submit constitutes neither a description nor a

suggestion of the above-discussed claimed features as recited, inter alia, in Claims 59 through 61.

It is further respectfully submitted that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at the above-discussed claimed features.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from the independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

#### REQUEST FOR INTERVIEW

If any questions remain, Applicants respectfully request that the Examiner contact Applicant's undersigned representative, Craig L. Plastrik, at (301) 601-7252 to schedule a personal interview. Favorable consideration in this regard is earnestly solicited.

PATENT  
Attorney Docket No.: PD-970636A  
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CONCLUSION

Applicants submit that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicants' undersigned attorney may be reached at (301) 601-7252. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "CRP", followed by the date "8-2-06".

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